DOCUMENT RESUME

ED 263 659 EA 018 036

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TITLE Knowledge of Legally Sanctioned Discipline Procedures by School Personnel.
PUB DATE Apr 85
NOTE 25p.; Paper presented at the Annual Meeting of the American Educational Research Association (Chicago, IL, March 31-April 4, 1985).
PUB TYPE Speeches/Conference Papers (150) -- Reports - Research/Technical (143)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Administrator Attitudes; Compliance (Legal); *Counselor Attitudes; Court Litigation; *Discipline; Discipline Policy; Federal Regulation; High Schools; *Knowledge Level; *Legal Responsibility; Principals; Student Rights; *Teacher Attitudes
IDENTIFIERS Goss v Lopez; Indiana; State Regulation; Supreme Court

ABSTRACT

Principals, teachers, and counselors in 15 Indiana high schools were interviewed to determine what procedures they believed were required in various disciplinary actions, and what authority they believed had sanctioned these procedures. The interviewees came from small, medium, and large schools in rural and urban settings. Nearly 71 percent of the principals were able to list all the rights granted in short suspension cases, whereas fewer than 30 percent of the counselors and teachers could do so. Most principals also exhibited good understanding of the complex requirements in expulsion cases, whereas counselors and teachers showed much more limited knowledge even of preliminary procedures. Principals were more knowledgeable concerning whether procedures were based on United States Supreme Court decisions or on state law than were counselors or teachers, and all groups were more fully aware of state requirements than of the Supreme Court's mandates. The research upheld the hypotheses that more highly placed school personnel exhibit greater knowledge of sanctions and that the closer the sanctioning authority is to the school the more aware personnel are of the mandates established. This report includes a discussion of the legal considerations and court decisions behind Indiana's disciplinary process regulations. (PGD)

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Knowledge of Legally Sanctioned Discipline Procedures By School Personnel

Susan J. Hillman, Ph.D.

Paper to be presented at the annual meeting of the American Educational Research Association, Chicago, April 1985.

EA 018 036

Knowledge of Legally Santioned Discipline Procedures By School Personnel[1]

Disciplinary actions with students have traditionally been a matter for local determination. In the last fifteen years, however, a number of federal judicial decisions (Goss v. Lopez, 1975; Tinker v. Des Moines Independent Community School District, 1969) have imposed regulations which have constricted the latitude once felt in the local handling of disciplinary cases. Some of these decisions have engendered state legislative action also affecting local practices in schools (Burns Ind. Stat. Ann., Supp. 1980). As a result, legislative and judicial decisions have handed down policies that are expected to be implemented at a lower bureaucratic level. For that to transpire, several circumstances must concur: the rule or desired practice must be clearly expressed; it must be known to and understood by those charged with implementation; and local administrators must be able and willing to carry out the policy (Wasby, 1970).

The present study focused on public school disciplinary practices in Indiana. Since in suspension and expulsion cases the procedures to be followed in Indiana public schools have been clearly expressed (Goss v. Lopez, 1975; Burns Ind.

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[1]A portion of this paper was taken from an initial draft written by Lee Teitelbaum, Professor of Law, University of New Mexico, reporting results found in conjunction with the present study.

Stat. Ann., Supp. 1980), the thrust of the study at hand was to investigate the second step in compliance: whether these procedures were known and understood by those charged with implementation (Wasby, 1970). Although primarily a descriptive study in nature, it was hypothesized that the closer the santioning authority was to the local school, the more likely school personnel would be aware of the mandates. Furthermore, within a school, the higher the position a person held within the school structure, the greater the likelihood that the sanction would be known and understood.

Legal Framework

Discussion of the current legal framework for student discipline in Indiana may begin with Goss v. Lopez (1975), in which the Supreme Court first addressed the constitutional status of disciplinary action by public school officials. Like many initial court decisions in previously unregulated areas (In re Gault, 1967), Goss v. Lopez (1975) combined strong language justifying the application of constitutional standards to disciplinary decisions with a carefully circumscribed holding.

To explain why due process applied, the majority observed that students possess constitutional rights which they do not "'shed...at the schoolhouse door'" (Goss v. Lopez, 1975, p. 574) and, specifically, that suspension from school without adequate process violates both property and liberty interests held by public school students. The property entitlement is that created by state statutes and

constitutions assuring a free education to all residents between certain ages (Goss v. Lopez, 1975). The liberty interest lies in freedom from the injury to a student's "good name, reputation, honor, or integrity" that official charges of misconduct, if sustained and made known, can occasion (Goss v. Lopez, 1975, pp. 574-575). Moreover, these interests were not in the Court's view of minor consequence. Because "education is perhaps the most important function of state and local governments...the total exclusion from the educational process for more than a trivial period, and certainly if the suspension is for ten days, is a serious event in the life of the suspended child" (Goss v. Lopez, 1975, p. 576).

Despite this strong language, the Court did not purport to decide all or even many issues concerning the process required in various school discipline situations. The holding of the case is addressed only to the "ordinary" suspension of less than ten days. The Court declined entirely to address the range of disciplinary sanctions beyond short suspension that schools routinely employ. Its holding observes that "Longer suspensions or expulsions for the remainder of the school term, or permanently, may require more formal procedures" (Goss v. Lopez, 1975, p. 583); however, the nature of these more formal procedures is not deliniated by the court. By the same token, corporal punishment, transfers to other schools or programs, exclusion from extracurricular activities and other disciplinary actions fall outside the holding the Goss v. Lopez (1975) decision.

Goss v. Lopez (1975) established, therefore, the proposition that students possess constitutionally protected interests in public education which cannot be denied without due process, but the court did not specify what process is required in any but the "usual" short suspension case. The uncertainty created by such a decision was, if anything, heightened by Wood v. Strickland (1975). Decided shortly after Goss v. Lopez (1975), this case imposed civil liability on a school board member who suspends a student when the official "knew or reasonably should have known that the action he took within his sphere of official responsibility would violate the constitutional rights of the student affected..." (Wood v. Strickland, 1975, p. 322). Although Wood v. Strickland (1975) insists that school officials "were not charged with predicting the future course of constitutional law" but only with good faith respect for a student's "clearly established constitutional rights" (p. 322), this limitation affords small comfort to those educators who find little settled by existing Supreme Court decisions (see also Carey v. Piphus, 1978).

On the state level, Indiana statutory law follows but goes considerably farther in its coverage than existing Supreme Court decisions. With regard to short suspensions (the only kind recognized by state law), Goss v. Lopez (1975) and the Indiana Due Process and Pupil Discipline Code (Supp. 1980) now contain identical requirements: a student must receive (1) notice of charges facing him/her, which may be

informal, and if the student denied those charges, (2) a summary of the evidence against him/her and (3) an informal opportunity to respond (Goss v. Lopez, 1975; Burns Ind. Stat. Ann., Supp. 1980). Moreover, the statute, like Goss v. Lopez (1975), presumes that the hearing will be conducted prior to disciplinary action unless emergent circumstances demand immediate removal of the child from school premises. The present Code provisions, enacted in August of 1980 and obviously designed to track the requirements of Goss v. Lopez (1975), were in force when this study was conducted.

Indiana legislation also has addressed the expulsion and exclusion of students. While the most that one can say constitutionally is that expulsion or exclusion must be accompanied at least by the process required for short suspensions and probably by some unstated increment beyond that, the Due Process and Pupil Discipline Code (Supp. 1980) does specify procedures for these sanctions. These rules, many of which have been in place since 1971 or 1973 are extremely formal and comprise a comprehensive set of requirements which go well beyond what is ordinarily thought necessary for administrative hearings. The first step involves submission of written charges by the principal to the superintendent of schools. If the latter decides there are reasonable grounds for investigation, he/she is required to appoint a hearing examiner within a specified period. The examiner must then send a statement to the pupil and his or her parents explaining the procedure for initiating a hearing and advising them of the violation claimed, the acts consti-

tuting the violation, a summary of the evidence to be presented against the student, the penalty requested by the principal, the hearing procedures used in the event of challenge by the student, and of their substantive rights to representation, discovery of records and witnesses, and to the hearing itself. If the student chooses to request a hearing, the hearing will be held with the proceedings recorded. The student is also entitled to findings concerning both behavior and sanction, which will be reviewed by the superintendent.

The hearing itself is a highly formalized procedure, with considerably more protection for the student than is usually true of administrative hearings. The pupil has not only the rights listed above, but also rights to presentation of evidence, sworn testimony, and to discovery of the evidence to be used against him/her. The hearing is to be closed for the protection of the student's privacy. In addition, the child is entitled to the privilege of remaining silent throughout, coupled with an express right not to be punished or threatened with punishment for refusing to testify. Moreover, there is a stated right to a severance of hearings in the event that more than one student is involved and it appears that prejudice might result from a joint hearing. Finally, provision is made for a right to appeal. The only concession to notions of informality usual in administrative hearings lies in the provision that the hearing examiner is not bound by rules of evidence or

courtroom procedure.

Although it has been pointed out that Supreme Court decisions in the area of school discipline have been ambiguous, it appears that the explicitness of the Due Process and Pupil Discipline Code (Supp. 1980) would provide the necessary clarity which is the essential first step needed for compliance to exist. Hence, the second condition needed for compliance to occur was the focus of this study: knowledge of the required federal and state mandates to be followed in suspension and expulsion cases.

It should be noted that some forms of discipline remain unregulated either by Supreme Court or state legislative action. The most commonly involved of these is in-school suspension, which involves exclusion from regular classes but not from school premises. Transfer of students to alternative school programs is likewise determined entirely by local practice, as are deprivations of school privileges and exclusions from extra-curricular activities. These disciplinary situations, since they are not addressed by state or federal sanctions, cannot be examined in terms of compliance. Thus, they are left for future study.

Furthermore, it should be mentioned that this research was preliminary and that much of what is reported is descriptive. However, descriptive data regarding school practices and procedures is a necessary first step to understanding the relationship of policy decisions to local school activities, and may provide further and more focused investigation into this and related areas.

Method

Subjects

Research was carried out in fifteen Indiana high schools. Only high schools were sampled; combined junior and senior high schools were excluded from the population because of the likelihood that different sanctions, procedures, and lines of authority would exist for the various age levels. To control for location (urban and rural) and size of school (small, medium, and large), the selection of schools was based on a stratified random sample from a list of public schools supplied by the North Central High School Association. Urban schools were defined as those having a population of more than 50,000 and rural communities included those with fewer than 25,000 residents. Small schools included all schools with fewer than 150 students per class, medium schools had 200-450 students per class, and large schools had more than 500 students per class. Three schools were randomly chosen within each category except that of "small urban" schools. The latter category was not filled because no urban public schools in Indiana were listed as having fewer than 150 students per class. Table 1 represents the selected sample of schools.

Table 1

Selected Sample of Schools by Size and Location

	Rural	Urban
Small	3	-
Medium	3	3
Large	3	3

Within each school a separate interview was conducted with the principal, a counselor, and three teachers. In most instances, the principal himself participated; in a few schools, however, an assistant principal was chosen because he was the official primarily responsible for disciplinary matters. In two of the large urban schools, a Dean of Students (having signficant disciplinary responsibility) also participated. Assistant Principals and Deans were counted with Principals, therefore, seventeen respondents in this group were involved. The teachers were selected by the Principals of the schools, and we cannot exclude the possibility that the latter chose teachers believed to be sympathetic with the school's disciplinary activities. Any actual bias of this kind is, however, largely irrelevant to the study; as it happened, teachers rarely answered questions regarding practice or knowledge in the same way as the principals who chose them.

Instruments

In examining compliance, data on knowledge is essential. In its ordinary definition, compliance with judicial or other commands presupposes knowledge of those commands. Therefore,

in an effort to determine whether knowledge of various legal requirements is differently distributed among school districts and among school personnel on-site interviews were conducted with principals, counselors, and teachers.

The first part of the interview included a series of vignettes describing students and their misconduct. All respondents were asked, given the situation introduced by the vignette, what disciplinary action would be taken in their schools and what procedures, if any, would be followed in each situation. The second half of the interview involved specific items assessing the respondents' knowledge of Supreme Court decisions and state laws regarding student discipline.

Procedure

All schools were visited in the spring of 1981. At that time, the principal and/or academic dean were interviewed as well as one counselor and three teachers from the school. The principal selected the teachers who participated within the criterion of scheduling teachers who had a minimum of five years experience. All interviews were conducted separately and were completed on the same day.

Knowledge of procedural rules was determined through two means: (1) the vignettes or scenarios where each respondent indicated what disciplinary action would be taken and what procedures would thereby be implemented, and (2) the specific questions asking if the Supreme Court or state had handed down any sanctions with respect to suspension or expulsion.

Results

The results of the study are reported in two sections. The first section deals with the procedures principals, counselors, and teachers felt were required following a specific disciplinary action. The second section covers the subjects' knowledge of whether the Supreme Court or state legislature had sanctioned particular procedures to be followed in school disciplinary cases.

Procedural Requirements

Both Goss v. Lopez (1975) and the Indiana Due Process and Pupil Discipline Code now require that students faced with suspension from school be advised of the charges against them and, if those charges are denied, the student is provided with a summary of the evidence regarding their misconduct and an informal opportunity to respond to the charges prior to removal from school. Table 2 presents data concerning the extent to which personnel in the sample schools report knowledge of these three steps.

Table 2

Reported Knowledge of Suspension Procedures

Group	Procedures			
	All Goss Rights	Some Goss Rights	Not Mentioned	Don't Know
Principals	70.6%	11.8%[1]	17.6%	0
	(12)	(2)	(3)	
Counselors	26.7%	13.3%[2]	60.0%	0
	(4)	(2)	(9)	
Teachers	17.8%	8.8%[3]	60.0%	13.3%
	(8)	(4)	(27)	(6)

[1]One omitted summary of evidence; one omitted opportunity to explain.

[2]One mentioned notice only; one mentioned opportunity to explain only.

[3]One mentioned notice only; one mentioned summary of evidence only; two mentioned notice and summary, but omitted opportunity to explain.

While nearly 71% of the principals were able to list all of the procedural rights granted in short suspension cases, less than 30% of the counselors and less than 20% of the teachers could. Of particular importance is the fact that nearly 75% of all teachers either did not know (which they stated explicity) or did not mention any of the necessary procedures. A little over 57% of the counselors did not mention any procedures.

With regard to expulsion, it is not possible to speak of "compliance" with federal judicial policy in connection with expulsion procedures, at least above a rudimentary level. The Supreme Court has not yet decided what procedures must accompany invocation of that sanction except, by implication, that they involve something beyond the Goss v. Lopez (1975) requirements. The Indiana Due Process and Pupil Code does, however, specify procedures to be used for expulsions and knowledge of those norms can be evaluated. The current requirements are highly elaborate and were listed in the prior section on Legal Framework (see pages 5-6). Table 3 on pages 14 and 15 reflects the percentages of principals, counselors, and teachers who mentioned specific procedures that were to be followed in expulsion cases.

In view of the complex expulsion requirements set forth by Indiana law and the open-ended question format, which required respondents to recall and specify the rights associated with that sanction, the principals' responses in most areas are striking in their consistency with state law. As an indication of knowledge of state law, the rate of accurate responses by principals was impressive since it is possible that these respondents underreported the extent of knowledge for a couple of reasons. One has to do with the interview technique used. Not only may administrators have forgotten procedures that in fact are used, but they may also have collapsed categories of reports that the researchers (and the Code) considered separate. For example, a respondent who

Table 3

Reported Knowledge of Expulsion Procedures

Group	Procedures							
	Preliminary: written charges	hearing examiner	notice written	hearing	notice of rights	discovery requirements	represent-ation	record
Principals	88.2%	88.2%	94.1%	88.2%	82.4%	29.4%	88.2%	35.3%
	(15)	(15)	(16)	(15)	(14)	(5)	(15)	(6)
Counselors	33.3%	33.3%	46.7%	33.3%	33.3%	6.7%	33.3%	0
	(5)	(5)	(7)	(5)	(5)	(1)	(5)	
Teachers	11.1%	13.3%	17.8%	20.0%	6.7%	4.4	17.8	0
	(5)	(6)	(8)	(9)	(3)	(2)	(8)	

Table 3 (continued)

Reported Knowledge of Expulsion Procedures

Group	Procedures						
	closed hearings	right to be heard	right to silence	sworn evidence	produce witnesses	right to be present	appeal possible
Principals	52.9%	29.4%	23.5%	94.1%	64.7%	41.2%	58.8%
	(9)	(5)	(4)	(16)	(11)	(7)	(10)
Counselors	0	0	0	46.7%	13.3%	0	13.3%
				(7)	(2)		(2)
Teachers	2.2%	0	0	24.4%	4.4%	0	6.7%
	(1)			(11)	(2)		(3)

said there was a right to a hearing might have assumed that a hearing necessarily entailed the rights to be present and to be heard; having said the first, he may well have assumed that he reported the others too. While there are indeed differences among these entitlements, those differences may be more technical than even an informed layperson would appreciate.

Counselors and teachers, on the other hand, demonstrated limited knowledge of even the beginning procedures. In all but one case, where teachers or counselors evidenced some knowledge, a greater percentage of counselors than teachers knew the necessary procedures to follow. Finally, it should be noted that there were several procedural rights which none of the counselors or teachers mentioned: right to a record of the hearing; right of the student to be heard or to be silent; and right of the student to be present at the hearing.

Knowledge of Mandates

A second part of the interview involved direct questioning of whether the Supreme Court or the state had handed down any requirements to follow in suspension or expulsion cases.

Table 4 represents the data found concerning awareness by group of Supreme Court action.

Table 4

Knowledge of Supreme Court Action

Group	Suspension			Expulsion		
	yes	no	don't know	yes	no	don't know
Principals	70.6	11.8	17.6	52.9	5.9	41.2
	(12)	(2)	(3)	(9)	(1)	(7)
Counselors	13.3	0	86.7	33.3	13.3	53.3
	(2)		(13)	(5)	(2)	(8)
Teachers	11.1	13.3	75.6	24.4	4.4	71.1
	(5)	(6)	(34)	(11)	(2)	(32)

Distinct differences can be found between principals, where 70% reflected an awareness of Supreme Court action, and the two other groups, counselors and teachers, where 75% or more stated they did not know if the Supreme Court had reviewed any cases involving suspension.

With expulsion, which has not been specifically addressed by the Supreme court (except within the context of Goss v. Lopez), almost 53% of principals believed it had been (and they would mention all the procedures which were, in fact, covered by Indiana state law). More counselors and teachers felt the Supreme Court had rendered a decision involving expulsion than a decision involving suspension. Notice that only a small percentage stated "no" that the Supreme Court had not decided a case whereas 41% percent of principals, 53% of counselors, and 71% of teachers simply did not know.

Percentages of principals', counselors', and teachers' knowledge of state law concerning suspension and expulsion procedures can be found in Table 5.

Table 5

Knowledge of State Law

Group	Suspension			Expulsion		
	yes	no	don't know	yes	no	don't know
Principals	94.1	5.9	0	100.0	0	0
	(16)	(1)		(17)		
Counselors	60.0	0	40.0	80.0	0	20.0
	(9)		(6)	(12)		(3)
Teachers	42.2	8.9	48.9	60.0	4.4	35.6
	(19)	(4)	(22)	(27)	(2)	(16)

In comparing knowledge of Supreme Court action with knowledge of state law, a greater percentage of principals were aware of state law. In fact, all principals were aware of the fact that the state mandated certain expulsion requirements and only one principal was unaware that the state had not mandated suspension requirements. Counselors and teachers also were more cognizant of state legislation, yet, even still, a substantial percentage did not know if suspension procedures were outlined by the state (40% counselors;49% teachers) or if expulsion procedures were established (20% counselors; 36% teachers).

Discussion

The two hypotheses were supported by the descriptive data gathered. First, the higher the position a person held within a school structure, the greater the likelihood that a judicial or state sanction would be known and understood. Principals were found to be most knowledgeable, followed by counselors, then teachers.

Second, the closer the sanctioning authority was to the local school, the more likely school personnel would be aware of the mandates. Clearly, this hypothesis was supported by the greater percentage of principals, counselors, and teachers who knew about the state legislative action, but not Supreme Court action.

Compliance, then, is more likely to exist when the sanctioning authority is in closer proximity to those who must implement its actions. In states where a discipline code has not been developed, it would be predicted that limited compliance with federal sanctions would exist since the federal level is comparatively distant from local school personnel. In order for compliance to take place where state codes do not exist, massive educational efforts delivered through state administrations are likely to be most successful.

It is striking that counselors and teachers significantly lacked knowledge and understanding of the law. These findings can be explained in several ways. First, the educational backgrounds of these two professions typically do not require them to gain substantive knowledge of school law

and administrative proceedings. Second, within the framework of their job descriptions, the occasion to need and/or utilize such knowledge occurs at a much lower frequency as compared to principals. Nevertheless, at this time of greater accountability and responsibility to students, it appears both necessary and prudent for educators at all levels within the school at least to have a "working" knowledge of the administrative regulations which affect students. Certainly the suspension and expulsion of students are facts of daily life which reverberate throughout the school and community making the teachers' and counselors' knowledge imperative.

In conclusion, this study has found differential levels of knowledge in school personnel with principals possessing the greatest amount of information on procedural requirements and sanctions concerning disciplinary practices.

It also appears that state regulations are more readily known across all three groups--principals, counselors, teachers--implying that the closer the proximity of the source of the mandate, the greater the knowledge of this mandate, and hence, greater likelihood for compliance.

Finally, in comparing the three groups, teachers and counselors prove to have very limited knowledge of either legal sanctions and/or the actions to be taken in suspension and expulsion cases.

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